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DATE

ACTION DIST.

BENEDETTI, R.L

BENJAMIN, A BERMAN, H.S. CARNIVAL, G.J.

COPP, R.D. CORDOVA, R.C DAVIS, J.G.

HEALY, T.J. HEDAHL, T.G HILBIG, J.G.

KIRBY, W.A

MARX, G.E

KUESTER, A.W. MANN, H.P.

McKENNA, F.G MORGAN, R.V.

PIZZUTO, V.M.

POTTER, G.L. RILEY, J.H.

SANDLIN, N.B

SETLOCK, G.H.

SULLIVAN, M.T.

SWANSON, E.R. WILKINSON, R.B WILSON, J.M.

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SATTERWHITE, D.C. SCHUBERT, A.L.

FERRERA, D.W FRANZ W A HANNI, B.J.

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ERD:BKT:11136



Rocky Flats Plant Natural Resource Trustee Memorandum of Understanding

Raymond Greenberg, Director, Rocky Flats/Albuquerque Production Division, EM-453, HO

Please find attached five (5) copies of the Memorandum of Understanding (MOU) for the Rocky Flats Plant (RFP) Natural Resource Trustees and the U.S. Environmental Protection Agency, Region VIII (EPA). This MOU has been drafted and negotiated in order that the U.S. Department of Energy (DOE) can establish and maintain compliance with Section 104 (b) (2) of CERCLA which requires the President to "seek to coordinate the assessments, investigations, and planning under this section with such Federal and State trustees". Our goal is to involve both the Federal and State co-trustees in our Interagency Agreement (IAG) activities. Likewise, we hope to involve EPA in our trustee activities. This will, hopefully, assist DOE in the minimization or elimination of residual natural resource injury at the RFP and, therefore, minimize our exposure to natural resource damage liability under CERCLA Section 107.

You should note that this MOU does not involve any transfer of funds from DOE to any of the co-trustees. Furthermore, it does not expose DOE to any penalties. It is strictly a "gentlemen's agreement" fostering cooperation among the RFP Natural Resource Trustees and EPA for IAG activities.

We request that written approval from EM-1 be given for the Manager, Rocky Flats Office, to sign the MOU for DOE. In addition, we request that concurrence for the MOU be obtained from EH-1 and GC-11.

The RFP Natural Resource Trustees are anxious to sign the MOU in order that we may concentrate on relevant IAG issues. Thus, your expediency is greatly appreciated.

Questions or concerns regarding this memorandum or the attached MOU should be addressed to Rich Schassburger of my staff at (303) 966-4888.

Richard J. Schasshurger

Acting Director

Environmental Restoration Division

CORRES CONTROL X X PATS/T130G

Reviewed for Addressee Corres. Control RFP

Attachment

Ref Ltr. #

DOE ORDER # 540

RF-46522 (Rev. 7/93)

DOCUMENT CLASSIFICATION REVIEW WAIVER PER CLASSIFICATION OFFICE

cc w/Attachment:

A. Rampertaap, EM-453 J. Ciocco, EM-453

J. Bascietto, EH-231

A. Paoule, OOM, RFO
J. Hartman, AMTER, RFO
K. Izell, OCC, RFO
M. Roy, OCC, RFO
R. Schassburger, ERD, RFO
B. Thatcher, ERD, RFO
N. Hytching, EG&G

N. Hutchins, EG&G S. Nesta, EG&G F. Harrington, EG&G T. Knudsen, EG&G

DRAFT MEMORANDUM OF UNDERSTANDING:
DEPARTMENT OF ENERGY
COLORADO DEPARTMENT OF NATURAL RESOURCES
COLORADO DEPARTMENT OF HEALTH
STATE OF COLORADO ATTORNEY GENERAL
DEPARTMENT OF THE INTERIOR and
U.S. ENVIRONMENTAL PROTECTION AGENCY

September 1993

LIST OF ATTACHMENTS

Attachment	A	Natural	Resources	and Asso	ciated A	gencies	
Attachment	B		Resource e for 1993		IAG Docur	ment Revie	≥₩
Attachment	С	Natural Summary	Resource List	a Truste	e Docume	ent Revie	≥W
Attachment	D	Acronym	List				

FRUM: natural

MEMORANDUM OF UNDERSTANDING

Among:

UU.S. Department of Energy, Rocky Flats Office (Federal Co-Trustee)

U.S. Department of the Interior (Federal Co-Trustee)
Colorado Department of Natural Resources (State Co-Trustee)
State of Colorado Attorney General (State Co-Trustee)
Colorado Department of Health (State Co-Trustee)
U.S. Environmental Protection Agency, Region VIII

Concerning:

Natural resource trustee functions pertaining to CERCLA section 104(b)(2) at the U.S. Department of Energy Rocky Flats Plant, Golden Colorado.

I. INTRODUCTION:

On January 22, 1991, the U.S. Department of Energy (DOE), U.S. Environmental Protection Agency (EPA), and the State of Colorado Department of Health (CDH) signed a Federal Facility Agreement and Consent Order known as the Rocky Flats Plant (RFP) Interagency Agreement (IAG). The RFP IAG integrates DOE's Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) obligations with the Colorado Hazardous Waste Management Act (CHWMA) and Conservation and Recovery Act (RCRA) closure and corrective action obligations. obligations relate to the release(s) of substances, hazardous contaminants, pollutants, hazardous wastes, and hazardous constituents.

It is a goal of the parties to this agreement to integrate protection and restoration of natural resources into RFP CERCLA RCRA/CHWMA response activities practicable by providing cooperation among all RFP natural resource trustees and EPA during the planning and implementation of response actions covered by the RFP IAG. The cooperation and coordination provided for in this MOU is restricted to providing technical expertise under CERCLA section 104(b)(2), and not include activities or determinations the trustees may undertake pursuant to their authorities responsibilities under CERCLA sections 107(f) and 122(j), or other law.

Natural resource trustees at the RFP include the Secretary of Energy [hereafter referred to as U.S. Department of Energy (DOE)], Secretary of the Interior [hereafter referred to as U.S. Department of the Interior (DOI)], the executive director of the Colorado Department of Natural Resources (CDNR), the executive director of CDH, and the Attorney General of the State of Colorado (AG). CDH is also the lead RCRA/CHWMA regulatory agency at the RFP.

The EPA is the lead CERCLA regulatory agency at the RFP. Although not a trustee, EPA is included as a signator to this MOU due to its role as the lead CERCLA regulatory agency, and the need for cooperation and coordination among all parties involved in CERCLA and CHWMA/RCRA response actions at the RFP.

II. PURPOSE:

This MOU provides broad guidance for natural resource trustee cooperation at the RFP under CERCLA Section 104(b)(2). The purpose of this MOU is to recognize and further develop this cooperative relationship by encouraging federal and state trustees and the EPA to provide technical expertise to the DOE and each other regarding natural resources during RCRA/CERCLA activities.

III. RESPONSIBILITIES: Parties will attempt, when practicable, to:

- A. Coordinate and cooperate in carrying out responsibilities where there are multiple trustees due to coexisting or contiguous natural resources or concurrent jurisdictions [NCP, Subpart G, Section 300.615(a)]. (See Attachment A).
- B. Cooperate in coordinating investigations and planning [NCP, Subpart G, Section 300.615(c)(2)]. Such cooperation may include attending and participating in scoping technical/public meetings, reviewing documents, and preparing and transmitting comments. (See Attachments B and C).
- C. Cooperate in integrating natural resource protection, restoration, mitigation and enhancement activities into RFP cleanup plans and activities, whenever practicable.

Nothing in this MOU will be construed as D. affecting the authorities of the participants, as binding them beyond respective authorities, requiring them to obligate or expend funds in excess of available appropriations, or as creating any other rights or legal obligations. Nothing in this MOU impairs the authority of the trustees under CERCLA sections 107 and 122, or other statutes. Nothing in this MOU affects DOE's obligation to comply with federal and state environmental laws.

IV. PROCEDURE:

- A. Trustees or their designees may attend and participate in natural resource trustee managers meetings for policy on an as needed basis.
- B. Technical staff members of the trustee organization may attend and participate in natural resource trustee technical meetings. These meetings will take place on an as needed basis.
- C. Trustees or staff members may attend RFP IAG working group meetings when trust resources are on the agenda.
- D. The DOE will transmit IAG documents to trustees as indicated according to the attached schedule (See Attachment B).
- E. Transmitted documents will be accompanied by a cover letter indicating the number of days for review and comment.
- Individually, parties may review and F. comment on any IAG documents as indicated in the "Natural Resource Trustee IAG Document Review Schedule." Attachments B and C). Comments will be provided on a technical assistance basis only, and will not constitute a position regarding possible damages for injury to The absence of natural resources. response does not signify a party's agreement to or concurrence actions proposed.
- G. Attachment B, "Natural Resource Trustee IAG Document Review Schedule," will be

updated quarterly (April 15, July 15, October 15 and January 15) by DOE. The schedule in Attachment B will reflect IAG deliverables for one year into the future from the date of the update.

V. ADMINISTRATION:

- A. The terms of this MOU may be modified by mutual agreement of the parties. Terms and/or issues should be raised initially at a natural resource trustees managers meeting following at least 30 days notice. Changes to this MOU will be made in the form of an amendment which will be subject to the provisions of the MOU. Amendments must be signed by each participant. The effective term of an amendment will not extend beyond the expiration date of the MOU.
- B. Any participant may cease to be a party to this agreement following 30 days written notice to the other participants.

APPROVED:

DATE:

Al Pauole
Acting Manager, Department of Energy, Rocky Flats Office
Designee on behalf of the Secretary of Energy

Robert Stewart

Department of the Interior, Office of the Secretary

Designee on behalf of the Secretary of the Interior

Ronald W. Cattany
Deputy Director, Colorado Department of Natural Resources
Designee on behalf of the Executive Director of the DNR

Patricia Nolan Executive Director, Colorado Department of Health

Gale A. Norton Colorado Attorney General

Jack McGraw Acting Regional Administrator, EPA Region VIII

ATTACHMENT A

NATURAL RESOURCES AND RESPONSIBLE AGENCIES

NATURAL RESOURCES

RESPONSIBLE AGENCIES

1. WATER

GROUND WATER:

quantity/non-private rights

quality

CDNR, DOE, AG

CDH, DOE, AG

SURFACE WATER:

quantity/non-private rights

quality

CDNR, DOE, AG CDH, DOE, AG

2. GEOLOGICAL

SOILS:

contamination

removal/erosion

CDH, DOE, AG

CDNR, DOE, AG

3. BIOLOGICAL

FEDERAL THREATENED AND

ENDANGERED SPECIES*

DOI, DOE

STATE PROTECTED SPECIES*

CDNR, DOE, AG

MIGRATORY BIRDS

DOI, DOE, CDNR, AG

OTHER FISH AND WILDLIFE

CDNR, DOE, AG

VEGETATION

DOE

4. AIR

CDH, DOE, AG

^{*} Overlap exists among some state and federal protected species.

ATTACHMENT B

NATURAL RESOURCE TRUSTEE IAG DOCUMENT REVIEW SCHEDULE

no		DELIVERY OF DRAFT TO	NUMBER OF	TRUSTEE	DELIVERY OF	NUMBER OF	REVIEW FINAL
;		NR TRUSTEES (IAG	DAYS FOR	RETURN COMMENTS ON	FINAL 10 NH TRUSTEES (IAG	DAYS FOR REVIEW OF	BIDAIR
		(allosaliw)	DRAFT (DAYS)	DRAFT TO DOE	Milestone)	FINAL (DAYS)	
	DESCRIPTION						
					29 Oct 93, 31 Jan 94,		
					29 Apr 94, 29 Aug 94,	············	
	Historical Release Report				23 Dec 94	None	None
-	Phase III REI/RI Remort	NA	62	NA	15-Nov-93	21	16-Dec-93
. <u>.</u>	BEI/BEI Berort	1-Aug-94	62	27-Oct-94	4-Jan-95	.21	2-Feb-95
2 -	CMS/RS Bench	11-Feb-94	62	11-May-94	3-Aug-94	21	1-Sep-94
- (*	Description (Parket	14-Feb-94	62	16-May-94	21-Oct-94	21	21-Nov-94
, (Tigade 1111 Mill Pepal.	10-Jun-94	62	8-Sep-94	18-Nov-94	21	21-Dec-94
-	Tiday I II (III I day)	AN	21	26-Oct-93	4-Jan-94	5	11-Jan-94
-	Choposed Figure (1.1.)	12-Oct-93	62	18-Jan-94	16-Mar-94	21	15-Apr-94
	CMS/FS Report	4-Nov-93	62	10-Feb-94	10-May-94	21	9-Jun-94
ı	Phase BEI/Bl Boxort	30-Nov-93	62	4-Mar-94	3-May-94	21	2-Jun-94
) a	Dhana BEI/B Boooti	14-Feb-94	62	12-May-94	12-Jul-94	21	10-Aug-94
0	Dheed BEI/Bl Boootl	11-Apr-94	62	8-Jul-94	6-Sep-94	21	5-Oct-94
,	Phone 1 Damend IM/IBA Decision Document	14-Apr-94	62	13-Jul-94	12-Sep-94	5	19-Sep-94
12	Priday I Flobased Invital Accessor Comment	20-Apr-94	62	19-Jul-94	15-Sep-94	21	14-Oct-94
4	Dhase II REI/RI Work Plan	22-Apr-94	62	21-Jul-94	19-Sep-94	21	18-Oct-94
-	Bosnonsiyanose Summary	6-May-94	21	7-Jun-94	3-Aug-94	21 ,	1-Sep-94
- ~	Proposed Plan (PP)	10-May-94	21	9-Jun-94	9-Aug-94	2	16-Aug-94
-	CAD/ROD	3-Aug-94	21	1-Sep-94	1-Nov-94	21	2-Dec-94
<u>ج</u>	Phasa I REI/RI Renort	8-Aug-94	62	3-Nov-94	11-Jan-95	21	9-Feb-94
9	Phase I REI/RI Report	25-Aug-94	62	22-Nov-94	30-Jan-95	21	28-Feb-94
2	phase II BEI/BI Work Plan	13-Sep-94	62	12-Dec-94	15-Feb-95	21	16-Mar-94
• =	Phase REI/RI Report	20-Sep-94	62	19-Dec-94	22-Feb-95	21	23-Mar-95
: -	יייייייייייייייייייייייייייייייייייייי	1-Nov-94	21	2-Dec-94	5-Dec-94	21	10-Jan-95
-	COULD WORK Light	1-Nov-94	62	7-Feb-95	6-Apr-95	2	13-Apr-95
- 0	Filase I Fighased IWITA Decision Document	13-Dec-94	21	19-Jan-95	16-Mar-95	21	17-Apr-95
4		20-Dec-94	62	24-Mar-95	23-May-95	21	22-Jun-95
4	Phase I HFI/HI Heport			***************************************			

ATTACHMENT C

NATURAL RESOURCE TRUSTEE DOCUMENT REVIEW SUMMARY LIST

SUMMARY OF DOCUMENTS TO BE SUBMITTED FOR TRUSTEE REVIEW

A. CERCLA/RCRA/NEPA INTEGRATION

CERCLA	RCRA	NEPA
RI RI	RFI RFI	
RI RI	RFI RFI	
FS FS	CMS CMS	EA;MIPI EA;MIPI
PP PP RS RS		MiPI MiPI
ROD	CAD CAD	MiPI MiPI
RD	CD	
	RI RI RI RI RI RI RI RI RI RI RI RI RI R	RFI

^{*} Includes a mitigation plan

¹ CAD/ROD documents trustee involvement throughout the remedial action process.

	CERCLA	RCRA	NEPA
CA/RA:			
(17) Performance Assessment Report (18) 5-Year Review Report			
B. INTERIM MEASURE/INTERIM REMEDIAL	ACTION (IM/IRA)		
IM/IRA:	•		
(19) Draft Proposed IM/IRA/EA Decision Document* (20) Proposed IM/IRA/EA Decision Document* (21) Draft IM/IRA/EA Responsiveness Summary (22) Final IM/IRA/EA Decision Document and	IRA IRA IRA	M M M	EA;MIPI EA;MIPI EA
Responsiveness Summary* (23) CD/RD Work Plan (Title I Design)* (24) IM/IRA Implementation Document (25) IM Title II Design Report	IRA RD IRA IRA	M CD M M	EA;MiPI
C. SITE-WIDE INTERAGENCY AGREEMENT	DOCUMENTS		
		DUE DATE	
(26) Final Historical Release Report (27) Annual Treatability Study Report (28) Draft ARARs Document (29) Final ARARs Document (30) Historical Release Report		May 19,1992 Annually (Mar XXXX XXXXX Quarterly	ch)
D. SITE WIDE DOCUMENTS (NON-IAG)			
(31) Draft Site-Wide EIS (32) Final Site-Wide EIS (33) Radioecology Study (34) Site-Wide Mitigation Plan		Spring of 199 April 1994 December 31 December 31	, 1992

[•] Includes a mitigation plan

AGENCY INVOLVEMENT DOCUMENT REVIEW LIST 2

U.S. Department of the Interior: cc without attachments

• Fish and Wildlife Service: all documents

Colorado Department of Health: all documents

Colorado Department of Natural Resources:

- Colorado Department of Water Resources: IM/IRA/EA, PP, CAD/ROD, CMS/FS/EA and all water related documents involving either water rights or quantity
- Soil Conservation Board: CMS/FS/EA, IM/IRA/EA, PP, CAD/ROD, and all other documents involving soil erosion or removal
- Colorado Division of Wildlife: all documents (except RFI/RI Work Plans for OUs in the RFP industrial area)

Colorado Attorney General: all OU documents

An agency/trustee review period will coincide with the EPA and CDH review schedule for the IAG schedule (e.g., for RFI/RI documents, a draft review period normally consists of 62 working days or 3 working months whereas a final review period consists of 21 working days).

² Some of the documents listed below are for information and some are for review and comment.

ATTACHMENT D

ACRONYM LIST

ARARS
CA
CAD
CD
CERCLA

CMS EA EIS FS IAG IM

IRA MiPI NEPA PP

RA RCRA RD RFI RFP

RI ROD RS Applicable or Relevant and Appropriate Requirement

Corrective Action

Corrective Action Decision

Corrective Design

Comprehensive Environmental Response,

Compensation, and Liability Act

Corrective Measures Study Environmental Assessment Environmental Impact Statement

Feasibility Study

Interagency Agreement

Interim Measure

Interim Remedial Action

Mitigation Plan

National Environmental Policy Act

Proposed Plan Remedial Action

Resource Conservation and Recovery Act

Remedial Design

RCRA Facility Investigation

Rocky Flats Plant Remedial Investigation Record of Decision

Responsiveness Summary